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10/799,569	03/12/2004	Thomas Lloyd Hiller	2100.005300/HILLER 21-15	6464
7590 Terry D. Morgan Williams, Morgan & Amerson, P.C. Suite 1100 10333 Richmond Houston, TX 77042			EXAMINER VUONG, QUOCHIE B	
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.



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**BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES**

Application Number: 10/799,569  
Filing Date: March 12, 2004  
Appellant(s): HILLER ET AL.

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Mark W. Sincell  
For Appellant

**EXAMINER'S ANSWER**

This is in response to the appeal brief filed 08/12/2010 appealing from the Office action mailed 01/15/2010.

**(1) Real Party in Interest**

The examiner has no comment on the statement, or lack of statement, identifying by name the real party in interest in the brief.

**(2) Related Appeals and Interferences**

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

**(3) Status of Claims**

The following is a list of claims that are rejected and pending in the application:

Claims 1-13 are pending in the application.

Claims 1-13 are rejected under 35 U.S.C.102(b) as being anticipated by Rosen et al. (WO 02/0939953 A1).

**(4) Status of Amendments After Final**

The examiner has no comment on the appellant's statement of the status of amendments after final rejection contained in the brief.

**(5) Summary of Claimed Subject Matter**

The examiner has no comment on the summary of claimed subject matter contained in the brief.

**(6) Grounds of Rejection to be Reviewed on Appeal**

The examiner has no comment on the appellant's statement of the grounds of rejection to be reviewed on appeal. Every ground of rejection set forth in the Office action from which the appeal is taken (as modified by any advisory actions) is being maintained by the examiner except for the grounds of rejection (if any) listed under the subheading "WITHDRAWN REJECTIONS." New grounds of rejection (if any) are provided under the subheading "NEW GROUNDS OF REJECTION."

**(7) Claims Appendix**

The examiner has no comment on the copy of the appealed claims contained in the Appendix to the appellant's brief.

**(8) Evidence Relied Upon**

WO 02/0939953 A1	Rosen et al.	11-2002
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**(9) Grounds of Rejection**

The following ground(s) of rejection are applicable to the appealed claims:

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-13 are rejected under 35 U.S.C. 102(b) as being anticipated by Rosen et al. (WO 02/0939953 A1).

Regarding claims 1 and 9, Rosen et al. disclose a method and apparatus of communication with a dormant mobile station, the method comprising: paging the dormant mobile station in response to receiving a request from a first mobile station to transmit a message to the dormant mobile station (paragraph [0074]); receiving a page response signal from the dormant mobile station; providing an indication-to-speak to the first mobile station in response to receiving a page-event indication from a mobility data network, the page-event indication being formed by the mobility data network based on the page response signal; and establishing a connection with the dormant mobile station in response to receiving the page response signal, the indication-to-speak being provided to the first mobile station concurrently with establishing the connection (paragraphs [0077] and [0121]).

As for claims 2 and 10, Rosen et al. teach wherein paging the dormant mobile station in response to receiving the request from the first mobile station to transmit a message to the dormant mobile station further comprises paging the dormant mobile station in response to receiving a request from the first mobile station to transmit a PoC message to the dormant mobile station (paragraphs [0077] and [0121]).

As for claims 3 and 11, Rosen et al. teach establishing a connection with the dormant mobile station comprises establishing at least one traffic channel to the dormant mobile station, and further comprising: delivering the message over the connection (paragraphs [0077] and [0121]).

As for claims 4 and 12, Rosen et al. teach wherein establishing the connection with the dormant mobile station in response to receiving the page response signal further comprises establishing a plurality of connections with the dormant mobile station in response to receiving the page response signal (paragraphs [0077] and [0121]).

As for claims 5 and 13, Rosen et al. teach wherein paging the dormant mobile station in response to receiving the request from the first mobile station to transmit the message to the dormant mobile station further comprises paging the dormant mobile station in response to receiving a request-to-speak from the first mobile station to transmit a voice message to the dormant mobile station (paragraphs [0074], [0077] and [0121]).

As for claim 6, Rosen et al. teach a method of communicating with a [[wireless unit]] mobile station comprising: delivering a request to transmit a message to the [[wireless unit]] mobile station ; and receiving a page-event indication-to-speak from a mobility data network, the page-event indication being formed by the mobility data network based on the page response signal received from the mobile station ((paragraphs [0074], [0077] and [0121]).

As for claim 7, Rosen et al. teach wherein delivering the request to transmit the message to the mobile station further comprises delivering a request to transmit a PoC message to a mobile station (paragraphs [0074]-[0077] and [0121]).

As for claim 8, Rosen et al. teach wherein delivering the request to transmit the message to the mobile station further comprises delivering a request-to-speak to a mobile station (paragraphs [0077] and [0121]).

### ***Response to Arguments***

Applicant's arguments filed 09/08/2009 have been fully considered but they are not persuasive.

Applicant argues that Rosen et al. fail to disclose a confirmed indication-to-speak communication system. Examiner, however, does not agree with the Applicant. Applicant's attention is directed to Rosen et al. (paragraphs [0074], [0077], and [0121]) which clearly disclose the first mobile station (talker mobile station) issuing a service request after the first station has received a response.

#### **(10) Response to Argument**

##### **I. Rejection under 35 U.S.C. 102(b) as being anticipated by Rosen et al. (WO 02/093995 A1) of Claims 1-5.**

Regarding claims 1-5, the Appellant alleged that Rosen et al. fail to disclose "providing an indication-to-speak to a first mobile station in response to receiving a page event indication formed by a mobile data network based on a page response signal received from a dormant mobile station" and "providing an indication-to-speak to a first mobile station concurrently with establishing a connection with the dormant mobile station" as set forth in claim 1 (i.e., see Appellant's argument section B).

In response, the examiner respectfully disagrees with the Appellant. It seems like the Appellant relied on a different embodiment of Rosen et al. Appellant's attention is

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directed to figure 3 and paragraphs [0074]-[0077] of Rosen et al., which disclose a Mobile-Initiated service origination and Paging embodiment comprising the steps of providing an indication-to-speak (Communications Manager (CM) sends PTT Floor Grant (step 312) to a first mobile station in response to receiving a page event indication formed by a mobile data network based on a page response signal received from a dormant mobile station or the dormancy response timer expires; and providing an indication-to-speak to a first mobile station concurrently with establishing a connection with the dormant mobile station (the first (talker) mobile station streams media to CM (step 316) and the CM eventually streams media to listener (dormant mobile station) (figure 4, step 418).

For the above reasons, the rejection of claims 1-5 should be maintained.

**II. Rejection under 35 U.S.C. 102(b) as being anticipated by Rosen et al. (WO 02/093995 A1) of Claims 1-5.**

Regarding claims 6-8, the Appellant alleged that Rosen et al. fail to disclose “the page-event indication being formed by the mobile data network based on a page response signal received from the mobile station” as set forth in claim 6 (i.e., see Appellant’s argument section C).

The response is very much the same with the response to claims 1-5 above. The examiner respectfully disagrees with the Appellant. It seems like the Appellant relied on a different embodiment of Rosen et al. Appellant’s attention is directed to figure 3 and paragraphs [0074]-[0077] of Rosen et al., which disclose a Mobile-Initiated service



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origination and Paging embodiment comprising the step of receiving a page-event indication (PTT Floor Grant (step 312) ) being formed by the mobile data network (Communications Manager (CM)) based on a page response signal received from the mobile station (dormant mobile station) or the dormancy response timer expires; and providing an indication-to-speak to a first mobile station concurrently with establishing a connection with the dormant mobile station (the first (talker) mobile station streams media to CM (step 316) and the CM eventually streams media to listener (dormant mobile station) (figure 4, step 418).

For the above reasons, the rejection of claims 6-8 should be maintained.

**III. Rejection under 35 U.S.C. 102(b) as being anticipated by Rosen et al. (WO 02/093995 A1) of Claims 1-5.**

Regarding claims 9-13, the Appellant alleged that Rosen et al. fail to disclose "provide an indication-to-speak to a first mobile station concurrently with establishing a connection with the dormant mobile station" as set forth in claim 9 (i.e., see Appellant's argument section D).

The response is very much the same with the response to claims 1-5 above. The examiner respectfully disagrees with the Appellant. It seems like the Appellant relied on a different embodiment of Rosen et al. Appellant's attention is directed to figure 3 and paragraphs [0074]-[0077] of Rosen et al., which disclose a Mobile-Initiated service origination and Paging embodiment comprising a network (including PDSN, CDMA Infrastructure, and Communications Manager (CM)) to provide an indication-to-speak

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(PTT Floor Grant (step 312) ) to a first mobile station concurrently with establishing a connection with the dormant mobile station (the first (talker) mobile station streams media to CM (step 316) and the CM eventually streams media to listener (dormant mobile station) (figure 4, step 418).

For the above reasons, the rejection of claims 9-13 should be maintained.

**(11) Related Proceeding(s) Appendix**

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

/Quochien B Vuong/

Primary Examiner, Art Unit 2618

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